

Application No.: 10/798,465

Attorney Docket No.: LAUFNZ00200

REMARKS

Claims 1-35 were pending in the present application. By virtue of this response, claims 1 and 28 are amended. Claims 9, 12-13 and 30-31 are cancelled. Support for the amendments may be found in the claims and specification as originally filed.

Accordingly, claims 1-8, 10-11, 14-29, and 32-35 are currently pending. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Applicant believes that no new matter is added by way of the amendments made herein.

Concerning the Specification

The Office Action objected to the specification under 37 C.F.R. §1.75(d)(1) as failing to provide proper antecedent basis for the claimed subject matter. Applicant disagrees.

Applicant notes that support for the connecting portion to have a lower modulus of elasticity than the anchors is found in the application and claims as originally filed, especially where the application refers to the fastener as being elastic. However, applicant amends paragraph [0046] with the language of the claim as originally filed.

Applicant notes that support for the fastener to have pores to facilitate tissue ingrowth is found in paragraph [0030] where it discusses a non-porous embodiment to prevent tissue ingrowth and then makes reference to an alternate variation where the fastener may be porous. However, applicant also amends paragraph [0030] to recite the language of the claim as originally filed.

Application No.: 10/798,465

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Rejections under 35 U.S.C. §102(e) - I

Claims 1, 3, 9, 12, 13, 17, 18, 22, and 25 are rejected under 35 U.S.C. §102(e) as being anticipated by DeVries et al. (U.S. Publication No. US-2004-0044364-A1).

As amended, claims 1 and 28 require the anchor/anchor means to be formed from from a first polymer or copolymer and the connecting portion to be formed from a second polymer or copolymer being different from the first polymer or copolymer.

Claims 1 and 28 requires the connecting portion to have a greater elasticity than either the first or second anchor/means for anchoring such that when tissue is placed between the anchor/means for anchoring, the connecting member is placed in a tensile state providing a compressive force against the tissue by the anchor/means for anchoring.

DeVries et al. fails to teach the limitations required by each of the above claims. Specifically, DeVries does not teach of a polymeric anchor where the end portions comprise a different material than a connecting portion. Such a configuration allows for an anchor of simple construction that provides an elastic compressive force between anchor members. In contrast, the variations of DeVries are relatively more complex. See e.g., DeVries figures 2-2B, 5A-5B, 7A-7F, and the variations shown in figures 8, 9, and 10. In addition, applicant submits that any suggestion to simplify the DeVries device would be contrary to the teachings of DeVries' many variations.

In view of the above, applicant believes this rejection is overcome with respect to claims 1, 28 and any claims ultimately dependent therefrom.

Rejections under 35 U.S.C. §102(e) - II

Claims 1-5, 7, 8, 10, 11, 14, 15, 17, 18, 20, 21, 28, 29, 32, 33 and 35 are rejected under 35 U.S.C. §102(e) as being anticipated by Jones et al. (U.S. Patent No. 6,723,108).

Applicant disagrees. Applicant is unable to find any teaching or suggestion in Jones regarding making a connecting portion elastic. Applicant notes that Jones teaches a coil to join the two sleeve elements. For this reason alone, Applicant believes this rejection is overcome with respect to claims 1, 28 and any claims ultimately dependent therefrom.

Application No.: 10/798,465

Attorney Docket No.: LAUFNZ00200

Rejections under 35 U.S.C. §102(e) - III

Claims 1-8, 10, 13, 16-18, 20-29, and 35 are rejected under 35 U.S.C. §102(b) as being anticipated by Gilson et al. (U.S. Patent No. 6,245,090).

Applicant disagrees. At the very least, applicant is unable to find any teaching or suggestion in Gilson regarding making a connecting portion elastic. Applicant believes this rejection is overcome with respect to claims 1, 28 and any claims ultimately dependent therefrom

Rejections under 35 U.S.C. §102(e) - IV

Claims 1, 3-6, 10, 20-23, 25, 27, 28 and 35 are rejected under 35 U.S.C. §102(b) as being anticipated by Schneidt (U.S. Patent No. 5,702,421).

Applicant disagrees. As amended, Schneidt fails to teach or suggest all of the requirements of claims 1 or 28. Accordingly, Schneidt fails to anticipate any claims ultimately dependent from claims 1 or 28.

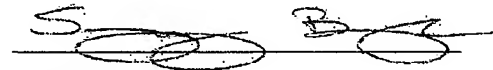
Application No.: 10/798,465

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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,



Sanjay S. Bagade
Registration No. 42,280

Customer No. 40518
Levine Bagade LLP
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303
Direct: (650) 242-4212
Fax: (650) 284-2180